

STATE OF OHIO
Executive Department

OFFICE OF THE GOVERNOR

Columbus

VETO MESSAGE

**STATEMENT OF THE REASONS FOR THE VETO OF
AMENDED SUBSTITUTE HOUSE BILL 228**

December 19, 2018

Pursuant to Article II, Section 16, of the Ohio Constitution, which states that the Governor may disapprove of any bill, I hereby disapprove of Amended Substitute House Bill Number 228 (Am. Sub. H.B. 228) and set forth the following reasons for so doing.

Since first being elected to the Ohio Senate in 1976, I have consistently supported Ohioans' constitutional right to bear arms and to defend themselves and their families. As governor, I have signed or allowed to become law nine bills protecting that right, making mine one of the most consistently pro-Second Amendment administrations in the history of our state. But even the late U.S. Supreme Court Justice Antonin Scalia noted in *District of Columbia v. Heller*, 554 U.S. 570 (2008), that "[l]ike most rights, the right to bear arms is not unlimited." Justice Scalia went on to say in *Heller* that "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill . . ."

In just the last few years, we have all witnessed the horrific mass shootings at the Borderline Bar & Grill in Thousand Oaks, California, the Tree of Life Synagogue in Pittsburgh, the Fifth Third Bank in downtown Cincinnati, the Route 91 Harvest music festival in Las Vegas, the First Baptist Church in Sutherland Springs, Texas, the Stoneman Douglas High School in Parkland, Florida, and others too numerous to list in this message. It is often the case that after the shooting, we learn that the shooter's family, friends, teachers, neighbors, co-workers, or fellow students saw signs beforehand that suggested that the shooter was heading toward some form of acute mental crisis that might result in self-harm or harm to those with whom the shooter comes in contact.

The vast majority of people who are suffering from some form of mental breakdown or illness, whether acute or long-term, will never commit an act of violence. And it is likely that we will never be able to accurately predict which people so suffering will commit acts of extreme violence. But that does not mean we should do nothing. New policies are needed to better safeguard those in crisis, their families, their co-workers, their classmates, their educators, law

enforcement officers, and the general public from the harm that we have seen happen far too many times when those in crisis have unrestricted access to firearms and have exhibited signs of causing harm.

A significant step forward in this area would be to enact a “red flag law,” also known as an “Extreme Risk Protection Order” law. Before the high school shooting in Parkland, Florida, five states already had versions of a red flag law in place; since Parkland, eight more states have adopted their own red flag laws. The concept of a red flag law is simple – if it becomes apparent that an individual who is in possession of a firearm is exhibiting some form of conduct that strongly suggests that the individual poses a real danger to himself or herself or to others with that firearm, then certain statutorily-defined people have the ability to go to court and seek an order from a judge that temporarily places that individual’s firearms in safekeeping while the individual is evaluated. Even the National Rifle Association is on record as supporting the concept of red flag laws. That the General Assembly has been unwilling to even debate the idea is baffling and unconscionable to me. This idea’s omission from this legislation is a shortcoming that I cannot accept.


While there is merit in the bill’s provisions strengthening penalties against illegal “strawman” purchases of firearms and allowing off-duty police to carry concealed weapons, other provisions in this bill will benefit from additional consideration. For example, this bill would reverse the burden of proof in criminal cases in which the defendant alleges he or she acted in self-defense. The bill would require the prosecution to *disprove*, beyond a reasonable doubt, the defendant’s self-defense allegation. This has never been the law in Ohio; the defendant has always had the burden of proving self-defense. This provision of the bill is strongly opposed by the Ohio Prosecuting Attorneys Association. In addition, a provision in this bill to restrict the rights of local governments to enact any policies concerning firearms further erodes Ohio’s long-established policies that guarantee local governments substantial sovereignty under the legal principle known as “home rule.” These and other issues addressed in Am. Sub. H.B. 228 demand a more careful, deliberate public debate than can ever occur in the rushed, end-of-year environment of an abbreviated “lame duck” session.

I urge members of the 133rd General Assembly, convening in January 2019, to conduct a prolonged, thoughtful, and transparent review of state laws regarding the sale, possession, and use of firearms in order to send the next governor a bill that is not only consistent with the right to bear arms and the right of all Ohioans to robust due process protections, but that also keeps firearms out of the hands of those individuals who would use them to harm themselves or others. ~~Am. Sub. H.B. 228 is not that bill and signing it into law would be detrimental to the safety of all~~ of our citizens.

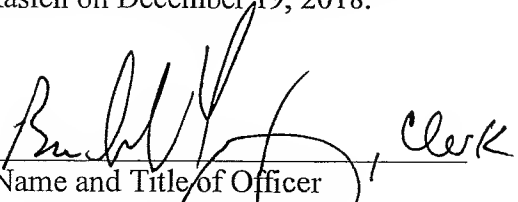
For these reasons, a veto of Amended Substitute House Bill 228 is in the public interest.



IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed at Columbus this 19th day of December Two Thousand Eighteen.


John R. Kasich, Governor

This will acknowledge the receipt of a copy of this veto message of Amended Substitute House Bill 228 that was disapproved by Governor John R. Kasich on December 19, 2018.


Name and Title of Officer

12-19-2018, 2:27 p.m.
Date and Time of Receipt